United States Court of Appeals

for the Second Circuit

BRIEF FOR APPELLEE

76-2013

IN THE

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

CIVIL ACTION NOS. 76-2013 - 76-2018 - 76-2045

MICHAEL HOLUP
CRAIG COPLEY
ARTHUR ANTHONY DeLORENZO

Plaintiffs - Appellants

v.

J. BERNARD GATES, Chairman,
Connecticut Board of Parole, ET AL

Defendants - Appellees

B
P/S

On Appeal from the United States District Court for the

District of Connecticut

BRIEF A[redacted]X OF APPELLEES

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I N D E X

TABLE OF CITATIONS

RELEVANT STATUTES

STATEMENT OF THE ISSUES

Did the District Court err in denying declaratory relief and in dismissing the plaintiffs claims that:

(a) the failure of the Connecticut Board of Parole to allow a prisoner to inspect his prison file prior to a parole release hearing and;

(b) the refusal of the Board to allow a prisoner to be assisted by counsel or other representative at such hearing, violate the Due Process Clause of the Fourteenth Amendment.

STATEMENT OF THE CASE

This is an appeal from a judgment of the United States District Court for the District of Connecticut (Judge M. Joseph Blumenfeld) denying a prayer for a declaratory judgment and dismissing the claims that: (a) the failure of the Connecticut Board of Parole to allow a prisoner to inspect his prison file prior to a parole release hearing and, (b) the refusal of the Board to allow a prisoner to be assisted by counsel or other representative at such hearing, violates the Due Process Clause of the Fourteenth Amendment.

Jurisdiction is claimed under 42 U.S.C. Section 1983 and 28 U.S.C. Sections 1343(3) and 1343(4), as well as under the Declaratory Judgment Act, 28 U.S.C. Sections 2201, 2202.

At this point the only plaintiff-appellant properly before this Court is Anthony Arthur DeLorenzo (Docket No. 76-2045).

In the hope of assisting the Court, a brief statement by way of background is appropriate.

Three inmates of the Connecticut Correctional Institution, Somers, hereinafter called Somers, after having been denied release on parole by the Connecticut Board of Parole, hereinafter called the Board, instituted separate actions in the District Court for the District of Connecticut. These inmates were Thomas LaBonte, Michael Holup and Howard Studley. Counsel on both sides

were identical and for all relevant purposes the same claims were made in each action.[1]

By agreement of the parties and with the approval of the Court, the three cases were consolidated and tried together.

In order to obviate the need for a three-judge court, the prayers for injunctive relief were dropped. See: Kennedy v. Mendoza-Martinez, 372 U.S. 144, 154-55, 83 S.Ct. 554, 9 L.Ed.2d 644 (633). This left only a prayer for a declaratory judgment plus, in Holup's case, a demand for money damages.

Following the trial and while the action was sub judice, Studley and LaBonte were released on parole. Their cases were dismissed as moot on the authority of Weinstein v. Bradford, ___U.S.___, 96 S.Ct. 347, 46 L.Ed. 350 (1975).

The controversy between Holup and the Board remained alive. Following the trial, Holup filed a motion for a certification as a class in order to avoid future mootness problems. This motion was denied by the District Court

[1]The only difference being that Holup claimed he was denied release on parole because of bias on the part of the parole panel which denied him parole and claimed money damages in addition to declaratory and injunctive relief. This claim was dismissed in the District Court for the reason that "...absolutely no evidence was presented to support this allegation..." See: LaBonte v. Gates, 406 F.Supp. 1227, 1228, footnote 1, (D. Conn. 1976).

"...because the motion was not filed until after the hearing on the merits, and after decision had been reserved, this case is not a proper vehicle for class adjudication." See: LaBonte v. Gates, supra, 1229.

Also:

> "Although the complaint in this action challenged the Parole Board procedures on several grounds, the plaintiff, after the hearing, abandoned all but two of his claims. He charges that (1) the failure of the Parole Board to allow a prisoner to inspect his prison file prior to the parole hearing and, (2) the refusal to allow a prisoner to be assisted by counsel, or other qualified representative, violate the Due Process clause of the fourteenth amendment."
> LaBonte v. Gates, supra, 1230.

These claims were dismissed in LaBonte v. Gates, supra.

Holup then took an appeal to this Court.

At the time of the decision in LaBonte, supra, two other inmates at Somers had cases pending in the District Court raising the same issues as were dismissed in LaBonte. These inmates were Craig Copley and Arthur A. DeLorenzo.

These actions were dismissed by Judge Blumenfeld sua sponte for failure to state a claim upon which relief can be granted.

These dismissals were based upon this Court's opinions in Haymes v. Regan, 525 F.2d 540 (2d. Cir. 1975); Menechino v. Oswald, 430 F.2d 403 (2d Cir. 1970), cert. denied, 400 U.S. 1023 (1971), and Judge Blumenfeld's decision in

LaBonte, supra.

Judge Blumenfeld's Memorandum of Decision as well as the Judgment in DeLorenzo v. Gates, et al, Civil No. H-75-416, are contained on pp. 1-3 of the appendix of this brief.

Although this Memorandum notes, in part, that injunctive relief was requested, the defendants are advised by counsel for the plaintiff that as in LaBonte, supra, this request has been dropped.

Both Copley and DeLorenzo then took an appeal to this Court.

By stipulation of the parties and by order of the District Court dated March 22, 1976, the record for this Court in Holup was ordered to be made part of the record in Copley and DeLorenzo since the former was dismissed after a full evidentiary hearing and the latter two were not.

Thereafter, by stipulation of the parties and by order of this Court dated April 12, 1976, the three appeals, Holup, Copley and DeLorenzo were ordered to be argued on the same day calendar on the record of all three cases.

Lastly, Michael Holup was released on parole on March 22, 1976, and Craig Copley was discharged from custody on April 23, 1976, therefore, their appeals should be dismissed as moot. See: Weinstein v. Bradford, supra.

Anthony A. DeLorenzo, therefore, has the only live appeal now pending

before this Court. The two issues are as stated above. All other claims having been dropped.

Arthur A. DeLorenzo is serving a sentence of not less than eight (8) years nor more than sixteen (16) years for the crimes of Robbery with Violence, Escape from State Prison, Binding with Intent to Commit a Crime, Aggravated Assault and Robbery in the Third Degree.

His minimum term expired on November 19, 1975. Pursuant to Section 54-125, Connecticut General Statutes, he was eligible for release on parole upon the expiration of his minimum term. He was denied release on parole on November 6, 1975, and was scheduled for a new parole release hearing in September of 1976. Although not a part of the record in the District Court, the defendants have set forth on p. 4 of their appendix, a letter from the Board's Chairman to DeLorenzo dated November 14, 1975, which states the reasons for the denial of parole.

DeLorenzo's maximum term, at present, and without considering future adjustments because of added or lost good time credits, is October 9, 1980.

I.

RELEVANT STATUTORY AND ADMINISTRATIVE PROVISIONS

The pertinent statutory provisions dealing with parole are contained in Sections 54-124a and 54-125, Connecticut General Statutes. These statutes

provide,insofar as is here relevant, that:

SECTION 54-124a, General Statutes

"There shall be a board of parole which shall be an autonomous body and within the department of correction for fiscal and budgetary purposes only. Said board of parole shall consist of eleven members, including a chairman, all of whom shall be qualified by training and experience for the consideration of matters before them and who shall be appointed by the governor with the advice and consent of either house of the general assembly,...The chairman, or in his absence or inability to act a member designated by him to serve temporarily as chairman, shall be present at all meetings of said board and participate in all decisions thereof. Said chairman shall be the executive and administrative head of said board and shall have the authority and responsibility for assigning members to panels, each to be composed of two members and the chairman or a member designated to serve temporarily as chairman, for each correctional institution. Such panels shall be the paroling authority for the institutions to which they are assigned and not less than two members shall be present at each parole hearing."

SECTION 54-125, General Statutes

"Any person confined in the Connecticut Correctional Institution, Somers,... for an indeterminate sentence, after having been in confinement under such sentence for not less than the minimum term,...may be allowed to go at large on parole in the discretion of the panel of the board of parole for the institution in which the person is confined, if (1) it appears from all available information, including such reports from the commissioner of correction as such panel may require, that there is reasonable probability that such inmate will live and remain at liberty without violating the law and (2) such release is not incompatible with the welfare of society. Such parolee shall be allowed in the discretion of such panel to return to his home or to reside in a residential community center, or to go elsewhere, upon such terms and conditions, including personal reports from such paroled person, as such panel prescribes, and to remain, while on parole, in the legal custody and control of the board until the expiration of the maximum term or or terms for which he was sentenced." [2]

[2]All the plaintiffs in these various actions including DeLorenzo are or were serving indeterminate sentences, i.e. sentences with both a minimum and a maximum term.

ADMINISTRATIVE PROVISIONS[3]

Plaintiffs Exhibit No. 4 (State of Connecticut, Board of Parole, State of Organization and Procedures) provides, in part, as follows:

"C. ATTENDANCE AT PAROLE HEARINGS

Inmates eligible for parole consideration are required to be present at parole hearings unless (1) illness prevents their attendance; (2) they are in punitive segregation; (3) they are confined at a state hospital or receiving treatment at a non-correctional institution hospital; (4) they have been transferred to an institution outside the State of Connecticut; or (5) they waive a hearing. The Board discourages the waiving of hearings, however, and prefers that all inmates available should be present when their hearings occur.

Attendance at parole hearings is restricted to the members of the Board, the recording secretary, the inmate, and in institutions where they are available, the inmate's institutional counselor. At the discretion of the Board's panels, persons with a substantial interest in the administration of criminal justice, and who do not have an interest in a particular case to be considered by the panel, may attend in an observational capacity only. Hearings are not open to the general public since the Board desires to insure the informality of the hearing and to provide each inmate and the Board an opportunity for free discussion of the inmate's case.

Although attorneys, relatives, and other interested persons are not permitted to appear at hearings, they may submit to the Board written information pertinent to any case. In addition, such persons are invited to confer with the Chairman or his assistant at the Board's office prior to the parole hearing in which they are interested. The Chairman then provides each member of the hearing

[3] References to transcript and exhibits relate to the transcript and exhibits in LaBonte, Studley and Holup v. Gates, et al.

panel with a written memorandum concerning the information received at all such conferences. Although the members of the Board prefer that such conferences be held with the Chairman or his assistant, such conferences may also be held with other members of the panel.[4]

D. PROCEDURE AT PAROLE HEARINGS

The inmate is given an opportunity to make a statement to the panel and to present letters and other documentary information to the panel. Members of the panel may ask questions of the inmate. ...

F. THE PANEL'S DECISION

Following the panel's discussion with the inmate, he is temporarily excused and after careful deliberation and evaluation of all the information obtained from the inmate and the records pertaining to him a decision is made by majority vote of the panel. The panel may decide to parole, deny parole, or continue the inmate's case for further investigation. If parole is granted, the panel will also set the date of release which may be the parole eligibility date or, in appropriate cases, some later date. The inmate is then recalled and is informed of the decision. If the decision is to deny parole, or to continue the case pending further investigation, the inmate is informed of the reasons for the denial or the continuance and the date when he will next be eligible for a parole hearing.

[4] The content of the two paragraphs immediately above is conveyed to the inmate at the time he is notified of his pending parole release hearing. See: T. pp. 36-38, testimony of Mr. Gates, and Plaintiffs Exhibit A, a copy of which is printed in the Defendants Appendix at p. 6 Copies of the entire Booklet, marked Plaintiffs Exhibit 4, are available to the inmates in the various correctional institutions. See: T. pp. 83-84, testimony of Mr. Gates. Inmates are further notified of the availability of the Board's procedures (Exhibit 4) by means of the last sentence in Exhibit A, Appendix p. 6.

> Whenever possible, the panel will also suggest to the inmate and/or the institutional treatment staff any action it believes may accelerate the inmate's rehabilitation and possible parole. The rehearing date is established for each inmate individually as a result of the panel's judgment of the factors involved in his case."

II.

THE PLAINTIFF'S CLAIMS HAVE BEEN
PREVIOUSLY CONSIDERED AND REJECTED BY THIS COURT

The due process requirements surrounding parole release hearings were recently considered in United States ex rel. Johnson v. Chairman of New York State Board of Parole, 500 F.2d 925 (2d Cir. 1974).

In so considering these requirements this Court reviewed its earlier decision in Menechino v. Oswald, 430 F.2d 403 (2d Cir. 1970) cert. denied, 400 U.S. 1023, 91 S.Ct. 588, 27 L.Ed. 635 (1971), in the light of the Supreme Court's decision in Morrissey v. Brewer, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed. 484 (1972).

After concluding this review the majority of the Court held that: "...due process does require the New York State Parole Board to furnish state prisoners a written statement of reasons when release on parole is denied." Johnson, supra, p. 934.

The Connecticut Board advises the prisoner who is denied parole of the reasons therefor both orally and in writing. (See: T. pp. 31-33, testimony

of Mr. Gates). This practice is not denied or in any way challenged by the plaintiff. The Board's statement of reasons for denying parole to DeLorenzo are set forth on p. 4 of their appendix.

In reviewing Menechino the Court stated the issues in Menechino to be:

> "The issue before us in Menechino was not merely whether the prisoner desiring parole was entitled to a statement of reasons, but whether he was entitled to a whole gamut of due process rights which he sought as a package, including '(i) notice of charges, including a substantial summary of the evidence and reports before the Board, (ii) a fair hearing, including the right of counsel, to cross-examination and confrontation and to present favorable evidence and compel the attendance of favorable witnesses, and (iii) a specification of the grounds and underlying facts upon which the determination is based;...' 430 F.2d at 405." (Underlining added)

Johnson v. Board of Parole, supra, p. 926, 927.

In holding that a prisoner who was denied parole was entitled under due process consideration to a written statement of reasons, the Court specifically held that:

> "Accordingly we conclude, in light of Morrissey, that some degree of due process attaches to parole release proceedings. This conclusion does not overrule Menechino, which held that an inmate being considered for parole was not entitled to the full panoply of due process rights, including a specification of charges, counsel, and cross-examination, in a non-adversarial determination. A determination that an inmate being considered for release on parole is entitled to one due process weapon (e.g., a statement of reasons) would not necessarily entitle him to the full panoply. See Drown v. Portsmouth School District, 435 F.2d 1182 (1st Cir.), cert. denied, 402 U.S. 972, 91 S.Ct. 1659, 29 L.Ed.2d 137 (1970). As we find below, the considerations governing whether a statement of reasons should be provided have little to do with whether providing counsel to prisoners in all parole release proceedings would be desirable, much less required by due process." Johnson v. Board of Parole, supra, p. 928. (Underlining added)

Thus, the plaintiffs claim for access to their files and assistance of a representative were clearly rejected by Menechino, and this rejection was affirmed in Johnson.

III.

OTHER PRECEDENTS

In Haymes v. Regan, supra, this court rejected a claim that due process entitled a prisoner to a statement of the criteria used by a parole board in considering release on parole.[5]

In so rejecting this claim this Court held that: "Our conclusion is dictated by consideration of the balance between the inmate's interest in the proceedings and the need for and usefulness of the particular safeguard in the given circumstances...Frost v. Weinberger, 515 F.2d 57, 66 (2nd Cir. 1975)." Haymes v. Regan, supra, p. 543.

[5] As is noted in Footnote 4, Exhibit 4 which contains all of the Board's procedures is made available to inmates in the various correctional institutions. The Board does publicize its criteria used in parole release consideration to inmates. These criteria are delineated on pp. 9-10 of Exhibit 4 and are set forth on p. 5 of the Board's appendix. The adequacy of these criteria are not challenged in this case.

This Court further held in Haymes that furnishing a prisoner with a specific statement of reasons and underlying facts for the denial of parole "...should serve to protect the inmate from arbitrary and capricious decisions or actions grounded upon impermissable considerations." and that the provision of a set of criteria "...would not at this time appreciably enhance the protection accorded the parole applicant or add to the fairness of the proceeding." Haymes, supra, p. 544.

It is undisputed that the Connecticut Board does furnish a statement of reasons for denial, as well as its parole release criteria, held not to be required in Haymes. The defendants claim that this combination is amply sufficient to "...protect the inmate from arbitrary and capricious decisions or actions grounded upon impermissable considerations." Haymes, supra.

Further, since in view of Haymes, a statement of parole release criteria would not "...appreciably enhance the protection accorded the parole applicant or add to the fairness of the proceeding." it is difficult to see how access to the inmate's file or representation by counsel or counsel substitute would serve any purpose. This is because there is no constitutionality required release criteria for counsel to work from or to match an inmate's file against.

In Fisher v. United States Board of Parole, 382 F.Supp. 241, 242-244 (D. Conn. 1974), Judge Newman construed Johnson, and held in Fisher as follows:

> "In United States ex rel. Johnson v. Chairman of New York State Bd. of Parole, 500 F.2d 925 (2d Cir. 1974), the Court of Appeals ruled that 'in light of Morrissey (v. Brewer, 408 U.S. 471, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972))...some degree of due process attaches to parole release proceedings.' Although the Johnson decision applied a standard of minimal due process to parole release hearings, it did not overrule the previous ruling in Menechino v. Oswald, 430 F.2d 403 (2d Cir. 1970), cert. denied, 400 U.S. 1023, 91 S.Ct. 588, 27 L.Ed.2d 635 (1971), that a prisoner receiving parole consideration is not entitled to the full panoply of due process rights." (Underlining added)

In Fisher the Court rejected the claim that a prisoner had a due process right of access to his file in connection with a parole release hearing since "...it is difficult to see how the due process clause can require such disclosure at parole release hearings when such disclosure is not required of district courts at sentencing. In both situations a variety of information may affect the ultimate decision. Yet the basic compilation of information available to the sentencing judge, the pre-sentence report, has not been discoverable pursuant to a due process requirement, United States v. Gardner, 480 F.2d 929 (10th Cir. 1973); United States v. Schrenzel, 462 F.2d 765 (8th Cir. 1972), though a liberal exercise of discretion to disclose has been recommended in this Circuit, United States v. Needles, 472 F.2d 652 (2d Cir. 1973); United States v. Brown, 470 F.2d 285 (2d Cir. 1972). Since the pre-sentence report is available to the Parole Board, an absolute requirement of disclosure by the Board of the prisoner's entire file would reveal at the parole hearing the very document the courts need not disclose at sentencing."

See also: Wiley v. United States Board of Parole, 380 F.Supp. 1194, 1200 (M.D. Penn. 1974), where the Court held, in part, that:

> "A prisoner does not have a constitutional right to examine his record or Parole Board files, and he is not entitled to rebut information in possession of the Board which militates against his parole."

IV.

THE PLAINTIFFS CLAIMS

The plaintiffs principle assertions in support of their claim for counsel or counsel substitute and access to the inmate's file are that the parole release hearing is really adversary in nature; that inmates, in general, are inept in speaking for themselves and that release decisions are frequently made upon inaccurate or incomplete information.

In citing selected portions of three hearings wherein parole was denied i.e. LaBonte, Studley and Holup, the plaintiff presents a totally inaccurate picture of Board hearings, and the attitude of Board members. It would be no more accurate to form an opinion on a trial court's position on probation, suspended sentence, dismissal, etc. by reviewing only transcripts of cases wherein the Court imposed a sentence of imprisonment.

Further, their reliance upon the selected portions of these hearings does not support these claims.

These claims were made during the trial and Judge Blumenfeld repeatedly attempted to discover how the Board's decision in these three hearings would have been altered by providing these inmates with the rights claimed in this case. (See: T. pp. 54-81)

The transcript shows the following:

> "Mr. Kunsberg: Your Honor in reference to this point, plaintiffs offer to prove today that, in fact, there was erroneous factual information often before the Board and that plaintiffs did not have...
>
> THE COURT: Has this ever been brought to the attention of anybody before this hearing? What do you claim to have been inaccurate in the record? Does anybody know what the issue is, outside of you?"

Following an admission that these alleged inaccuracies had never before been brought to anyone's attention including the Board (See: T. pp. 54-55) the transcript shows that, in fact, there were no inaccuracies at all.

The transcript shows that LaBonte received a misconduct report for being intoxicated.

He had a full and unchallenged, at least in this case, hearing before a disciplinary committee. He claimed to have had a blood test report to show that, in fact, he was not intoxicated. Yet, it was conceded that he never brought that report to the attention of either the disciplinary committee or the Board. (See: T. pp. 56-60).

Even if LaBonte did have such a report,its preparation would have been

impossible to obtain without the participation of staff members of the institution. It is incredible that they would not then see to it that the misconduct report was quashed.

In any event, it is impossible to see how anyone can be termed to have acted upon inaccurate information when it was LaBonte himself who allegedly possessed and withheld the information needed to correct the record. If what LaBonte now claims is true, he mousetrapped both the disciplinary committee and the Board. He could not entrap a trial court in this manner so as to upset a conviction and he should not be allowed to do so with an administrative agency.

LaBonte further claimed prejudice in not having representation to challenge a statement by a Board member to the effect that his background showed "...that he had a tendency to demonstrate aggressive behavior in the presence of females...and that these were considered reasons which contributed to the likelihood of his violating his parole."

Yet,when asked by Judge Blumenfeld whether there was any basis in the file for the Board members raising such an issue, LaBonte's answer was "Indeed, there was basis." (See T. pp. 69-70).

Further, when asked by Judge Blumenfeld what LaBonte would have presented to challenge this line of inquiry had he known it was going to be raised the answer was "nothing". (See: T. pp. 72-73.

With regard to Studley, the transcript shows that he admittedly escaped during an appearance in Court. He claims that he needed representation at his Board hearing so as to explain that he escaped because he was "...getting very nervous in a courtroom..." (See: T. pp. 60-63).

The explanation is not only frivolous and certainly does not require representation to be conveyed.

With regard to Holup, the transcript shows only that he denied and then pled guilty to his crimes. How any of the procedures claimed in this case could have increased the fairness of his hearing is impossible to see. (See: T. pp. 76-80). Especially since the denial of his parole was based, in principle part, because "Series of serious violent offenses. This is subjects second incarceration for a violent offense. Subject was on probation from New York when he committed present offense...Note: Subject to be heard early (6 months) a recognition of his excellent institutional adjustment..." (See: Plaintiffs Exhibit B) In fact, one of the Board members voted to parole Holup (See: T. p. 111).

Of course, with regard to the only live plaintiff before this Court, there is no record to show how access to his file or representation at his release hearing would have contributed to fairness of that hearing except that the reasons for denial, excessive criminal history, including violent offenses, the serious nature of the offense for which he is now sentenced and the commission of another

crime while in escape status seem unassailable.

Further, in United States v. Needles, 472 F.2d 652, 656 (2d Cir. 1973), this Court held that even in a sentencing situation the contents of pre-sentence reports are not required to be disclosed absent a claim that "...a report is grievously wrong."

The record before this court shows that the materials before the Board were entirely accurate, complete and could not have been altered in any way by affording the rights claimed.

Lastly, Chairman Gates, who has thirty years experience in the Corrections field in various capacities (See: T. p. 23), and who has participated in seven thousand parole granting hearings (See: T. p. 86), in response to a question from Judge Blumenfeld, stated that there are only minimal complaints from prisoners that paroles are denied on the basis of inaccurate information (See: T. p. 52). Chairman Gates further stated that if during a parole release hearing a prisoner claimed an error in the facts before the Board, then if the fact were important, the Board would continue the case (See: T. pp. 81-82).

V.

THE PAROLE RELEASE HEARING IS NOT ADVERSARY IN CHARACTER AND REPRESENTATION BY COUNSEL OR COUNSEL SUBSTITUTE IS NOT CALLED FOR

The plaintiffs lastly claim that parole release hearings are adversarial

in character and, hence, representation is required. They claim that the conclusion in Menechino, supra, to the contrary is mistaken at least with regard to the Connecticut Board.

This characterization most certainly springs from the plaintiffs unsubtantiated bias and not from anything in the record before this Court.

In Judge Blumenfeld's published opinion in LaBonte v. Gates, 406 F.Supp. 1227, 1231, footnote 6, he gives his own characterization of the Connecticut Board.

The defendants cannot recall ever reading a case where a state agency or anyone else for that matter was referred to by a Court in such complimentary terms.

Judge Blumenfeld's finding that "...the overwhelming characteristic of the Board, as it is presently constituted, is a desire to parole as many men as is possible" is amply supported in the record. In fact, the Connecticut Board is probably the most liberal Board in granting paroles in the United States, a fact for which it has sometimes been criticized (See: T. p.50).

C O N C L U S I O N

The defendants respectfully claim that the precedents in this Circuit and the record before this Court require that the decision of the District Court be affirmed and that this appeal be dismissed.

D E F E N D A N T S - A P P E L L E E S

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C E R T I F I C A T I O N

A copy of the foregoing has been served by mail, postage prepaid, on Judith M. Mears, Stephen Wizner, Dennis E. Curtis, and Mary F. Keller, Attorneys for Plaintiffs-Appellants, Yale Legal Clinic, 127 Wall Street, New Haven, Connecticut, 06520, this 20th day of May, 1976.

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